

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

TAVARIS L. MOSS,	)	
	)	
Plaintiff,	)	
vs.	)	NO. CIV-11-154-D
	)	
JOHN MIDDLETON, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff, a state inmate who appears *pro se*, brought this action pursuant to 42 U. S. C. § 1983. He alleges that his constitutional rights were violated during his confinement at the Cimarron Correctional Facility. Pursuant to 28 U.S.C. §636(b)(1)(B), the matter was referred to United States Magistrate Judge Robert E. Bacharach for initial proceedings.

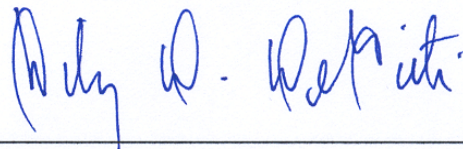
Defendant Justin Jones, the director of the Oklahoma Department of Corrections, filed a motion to dismiss or, alternatively, for summary judgment. On October 31, 2011, the Magistrate Judge filed a Report and Recommendation [Doc. No. 60] in which he recommended the Court grant the motion to dismiss on Plaintiff's claims for an injunction. He also recommended dismissal of Plaintiff's request for damages in Defendant Jones's official capacity and his request for damages in his personal capacity based on inadequacies in an administrative appeal decision. In addition, the Magistrate Judge recommended that summary judgment be granted on Plaintiff's claim for money damages regarding Jones's allegedly deficient response to Plaintiff's correspondence following his administrative appeal.

In the Report and Recommendation, Judge Bacharach advised Plaintiff of his right to object to the findings and conclusions set forth therein and scheduled a November 17, 2011 deadline for filing such objections. He also expressly cautioned Plaintiff that a failure to timely file objections

would result in a waiver of the right to appellate review of the matters determined in the Report and Recommendation.

The deadline for filing objections has expired, and Plaintiff has not filed an objection to the Report and Recommendation or sought an extension of time in which to do so. Therefore, the Report and Recommendation [Doc. No. 60] is adopted as though fully set forth herein. The motion to dismiss [Doc. No. 46] Plaintiff's claims for an injunction and money damages against Defendant Jones is GRANTED, and those claims are dismissed without prejudice. Defendant Jones's motion for summary judgment [Doc. No. 46] is GRANTED as to Plaintiff's claims seeking monetary damages for alleged deficiencies in Defendant's response to post-administrative appeal correspondence. As set forth in the Report and Recommendation, this action remains under referral to Judge Bacharach.

IT IS SO ORDERED this 29<sup>th</sup> day of November, 2011.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE